

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 LAZARO CEGUEDA-JUAREZ,

4 Plaintiff,

5 v.

18 CV 1604 (PAC)

6 CLEANWEAR USA 2, INC., et al.,

7 Defendants.

8 -----x
9 New York, N.Y.
June 6, 2018
11:30 a.m.

10 Before:

11 HON. PAUL A. CROTTY,

12 District Judge

13 APPEARANCES

14 MICHAEL FAILLACE & ASSOCIATES, P.C.

15 Attorneys for Plaintiff

16 BY: SARA JACQUELINE ISAACSON

17 LITTLER MENDELSON, P.C.

Attorneys for Defendants

18 BY: SHAWN MATTHEW CLARK

19 ALSO PRESENT: Kunal Kanodia, Intern
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1 (Case called)

2 THE DEPUTY CLERK: Counsel for the plaintiff, please
3 state your appearance.

4 MS. ISAACSON: Good afternoon, your Honor. Sara
5 Isaacson from Michael Faillace & Associates for the plaintiff.

6 THE COURT: Good morning, Ms. Isaacson.

7 THE DEPUTY CLERK: For the defendant.

8 MR. CLARK: Good morning, your Honor. Shawn Clark of
9 Littler Mendelson for the appearing defendants. I have with me
10 Kunal Kanodia who is a summer associate in our office.

11 THE COURT: You're most welcome.

12 Ms. Isaacson, do you want to tell me about the
13 lawsuit.

14 MS. ISAACSON: Yes, your Honor. My client was
15 employed by the defendants. They owned a Laundromat. And he
16 worked there from about the summer of 2009 till February of
17 2018, and he working between 62 to 72 hours per week.

18 He was paid a fixed weekly salary throughout his
19 employment in a combination of check and cash. So we brought
20 the lawsuit alleging violations of minimum wage, overtime, and
21 wage notice and wage statement violations.

22 THE COURT: What about the defense that the business
23 does less than \$500,000 a year? It does \$300,000 a year
24 according to the defendant.

25 MS. ISAACSON: We would ask the defendants to send us

1 some documents that would support that allegation. It's our
2 contention that they did make over \$500,000 based on our
3 client's testimony of the number of -- I guess I'll call them
4 sales -- that the business did.

5 THE COURT: Have you visited the premises,
6 Ms. Isaacson?

7 MS. ISAACSON: I have not, your Honor.

8 THE COURT: You also styled this as a collective
9 action, but there are only two employees.

10 MS. ISAACSON: We don't intend to move for a
11 collective action, your Honor.

12 THE COURT: Further, this is a drop-off place? It
13 doesn't provide on-premises services? You just drop your
14 laundry there, and it's farmed out?

15 MS. ISAACSON: It's my understanding that the
16 defendants did do some cleaning and ironing work.

17 THE COURT: Maybe delivery work as well?

18 MS. ISAACSON: Yes. He was primarily a delivery
19 worker, but it's my understanding that he also did some
20 cleaning and ironing.

21 THE COURT: Mr. Clark?

22 MR. CLARK: Your Honor, you are correct that this dry
23 cleaner is simply a drop-off place. It's a very small
24 location, maybe about 300 square feet. All that's kept there
25 are the clothes dropped off from the cleaning vendor.

1 There are two employees. Plaintiff was a delivery
2 person who takes the dropped-off laundry and delivers it door
3 to door to the clients. The plaintiff worked about 62 to 64
4 hours a week.

5 THE COURT: Was he tipped?

6 MR. CLARK: He was a tipped employee, and he was paid
7 overtime. So the employer did take a tip credit from his
8 hourly wage, but it's our contention that that tip credit was
9 appropriate and that he was paid the accurate amount.

10 THE COURT: What about the dollar value for the
11 business?

12 MR. CLARK: The highest year, if I remember correctly,
13 was just under \$300,000. The lowest year was under \$100,000.
14 The business has never done more than \$300,000 in annual gross
15 sales. We don't have a federal claim here.

16 THE COURT: I take it Ms. Isaacson wants proof of
17 that.

18 Can you give her proof of that?

19 MR. CLARK: We're happy to provide proof of that. I
20 think we have tax returns that we're happy to turn over
21 pursuant to some confidentiality exceptions.

22 THE COURT: What do you say to that, Ms. Isaacson?

23 MS. ISAACSON: That's fine, your Honor.

24 THE COURT: Have you prepared a civil case management
25 plan?

1 MS. ISAACSON: Yes, your Honor. I believe we filed it
2 on Monday.

3 THE COURT: Mr. Clark, how soon can you produce your
4 information about the revenue?

5 MR. CLARK: This week, your Honor.

6 THE COURT: I'm going to sign the civil case
7 management plan. I think, Mr. Clark, you should produce the
8 information as quickly as you can and see if you can't resolve
9 the matter. I'll have a conference on this case at the end of
10 July, the week of the 23rd.

11 THE DEPUTY CLERK: Conference set for Wednesday,
12 July 25, at 11:15 a.m.

13 THE COURT: See what kind of progress you've been able
14 to make with regard to the dollar value done at the defendant's
15 business location.

16 If it's less than \$500,000, Ms. Isaacson, we can agree
17 that there is no federal jurisdiction. Is that correct?

18 MS. ISAACSON: We have to evaluate the documents.

19 THE COURT: Of course. If you come to that
20 conclusion, there is no federal jurisdiction.

21 MS. ISAACSON: Right. Yes, your Honor.

22 THE COURT: I'll see you in July.

23 Is there anything else to do?

24 MS. ISAACSON: Not from plaintiff, your Honor. Thank
25 you.

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MR. CLARK: Not from defendant.

THE COURT: Thank you, Mr. Clark.

(Adjourned)